

§ 302.1-3 Protection of internal revenue prior to tax determination.

(a) *Suits and claims for return of vested property*—(1) *General*. The provisions of this paragraph apply in cases where there has been neither a final nor a tentative determination of internal revenue tax liability. See paragraphs (e) and (f) of § 302.1-4. In such cases vested property (including property vested pursuant to section 202(a) of the Act which is subject to divestment by reason of its ownership by a natural person) shall not be returned or divested except in accordance with this paragraph.

(2) *Notice to Commissioner*—(i) *Suits for recovery*. Where suit for the return of vested property has been instituted pursuant to section 207(a) of the Act, the Attorney General shall within a reasonable time after answer has been filed or after beginning of the trial of the case notify the Commissioner in writing of the property involved and the name, address, citizenship, residence, and business organization of the claimant, and any other pertinent information.

(ii) *Return without suit*. Where the Attorney General has determined that pursuant to section 207(b) of the Act vested property is to be returned to the claimant, the Attorney General shall notify the Commissioner in writing in the manner prescribed in subdivision (i) of this subparagraph at least 90 days prior to any return of such property.

(3) *Return of property*—(i) *By divestment*. Where the Attorney General has determined that property vested pursuant to section 202(a) of the Act was directly owned by a natural person, the Attorney General shall not divest himself of such property and restore it to its blocked status prior to vesting unless there has been a determination of tax liability pursuant to § 302.1-4 and a payment of such tax pursuant to § 302.1-5.

(ii) *Without security*. Where vested property is the subject of a suit or proceeding pursuant to the Act, it may be returned without security prior to determination of applicable internal revenue taxes and prior to the judgment of the court or to the publication of the order of the Attorney General directing such return to the following described

claimants under conditions hereinafter stated:

(a) *Residents and domestic enterprises*. In the case of claimants who at the time of return are (1) individuals permanently resident in the United States since December 7, 1941, or (2) corporations or other business enterprises organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, or doing business in the United States, the Attorney General may without notice to the Commissioner return the property at any time.

(b) *Non-residents, etc*. In the case of claimants who at the time of return are (1) individuals not permanently resident in the United States since December 7, 1941, or (2) nondomestic corporations or other nondomestic enterprises not doing business within the United States, the property may be returned not less than 90 days after notice by the Attorney General to the Commissioner in a case within subparagraph (2)(i) of this paragraph, or not less than 60 days after notice in a case within subparagraph (2)(ii) of this paragraph (a), unless within such time the Attorney General is advised otherwise by the Commissioner.

(iii) *When security required*. Except as provided in subdivisions (i) and (ii) of this subparagraph, vested property shall not be released prior to determination of tax liability without security satisfactory to the Commissioner, but determination of tax liability will be expedited in order that the release of the property or of the security shall not be unnecessarily delayed.

(4) *Security*. When security is required under subparagraph (3)(iii) of this paragraph (a), it shall be such of the following as the Commissioner considers necessary:

(i) *Bond*. A bond of the claimant conditioned upon payment of the full amount of internal revenue taxes determined to be due, filed with the district director in such amount, and with such sureties, as the Commissioner deems necessary. Only surety companies holding a certificate of authority from the Secretary of the Treasury may be used.

(ii) *Collateral security.* Collateral authorized by law deposited by the claimant in lieu of surety conditioned upon the payment of the full amount of internal revenue taxes determined to be due.

(iii) *Reservation of assets.* Monies, or if the monies are insufficient, so much of the other property involved, to be reserved by the Attorney General, as will be sufficient in the judgment of the Attorney General to cover any internal revenue tax liability determined by the Commissioner.

(b) *Vested property subject to debt claims—(1) Notice to Commissioner.* With respect to vested property available for the payment of debt claims pursuant to section 208 of the Act, and with respect to which debt claims have been filed, prior to the allowance of any such claims the Attorney General shall in writing notify the Commissioner of the property involved, the citizenship, residence, business organization and other necessary information concerning the debtor and the aggregate of debt claims filed in respect thereof.

(2) *Action by Commissioner.* Upon receipt of the notice provided in subparagraph (1) of this paragraph (b), the Commissioner shall, as soon as practicable and not later than 120 days after receipt of notice, unless the time is extended by the Commissioner after notice to the Attorney General, (i) determine the taxes payable by the Attorney General in respect of the debtor, or (ii) advise the Attorney General of the provision, if any, to be made by him for payment of taxes with respect of the debtor.

§ 302.1-4 Computation of taxes.

(a) *Detail of employees of the Internal Revenue Service.* The Commissioner will detail for the assistance of the Attorney General such employees of the Internal Revenue Service as may be necessary to make the computations under the regulations in this part promptly and accurately.

(b) *Relationship of Attorney General and former owner.* In the computation of tax liability under the regulations in this part, except as otherwise provided herein, the vesting of property shall not be considered as affecting the ownership thereof; and any act of the At-

torney General in respect of such property (including the collection or operation thereof and any investment, sale, or other disposition and any payment or other expenditure) shall be considered as the act of the owner. Nevertheless, except as otherwise provided in the Act or the regulations in this part, insofar as taxes are incident to the vested property during the period of vesting, they shall be payable by the Attorney General, except that to the extent of the value of any of the property returned to the former owner the latter shall be liable for such tax not paid by the Attorney General. While tax incident to nonvested property is collectible out of both vested and nonvested property, the nonvested property will be regarded as the primary source of collection of such tax. In determining the amount of liability to be paid out of property not vested by the Attorney General a computation shall be made covering the taxpayer's full period of liability, but without regard to the vested property, or the income received by, or the operations of, the Attorney General. The amount so computed shall be first asserted against and collected so far as practicable from the taxpayer or out of his property which is not vested. Such part of the total tax liability as is not paid by the taxpayer or collected out of property not vested shall be asserted against the vested property. See § 302.1-5, relating to payment of taxes, and § 302.1-7, relating to claims for credit or refund.

(c) *Laws applicable to computations.* Except as otherwise specifically provided in the regulations in this part, the computation under the regulations in this part of any internal revenue tax liability shall be in accordance with the internal revenue laws and regulations applicable thereto, including all amendments of such laws or regulations enacted or promulgated prior to determination of the tax.

(d) *Periods for which computations made.* The amount of income, declared value excess profits, excess profits, capital stock, employment, and excise taxes under the internal revenue laws will be computed for each taxable year or period during all or part of which property is vested prior to the return of the property. In the case of a return